

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

GERALD J. SILVA,	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 19-568JJM
	:	
STATE OF RHODE ISLAND, et al.,	:	
Defendants.	:	

**ORDER**

This order addresses Plaintiff's Motion to Strike the Challenges of and Compel Responses from Defendant Jennifer Clarke to Plaintiff's Request for Production. ECF No. 58.

**Preliminary Rulings:**

1. Plaintiff argues that, by asserting objections to his discovery, Defendant has failed to comply with the Court's Text Order of February 25, 2021. This argument is not well founded. The Text Order was addressed to Plaintiff, not to Defendant, and it did not overrule any of his appropriately asserted objections. To the extent that the motion seeks to strike objections based on the Text Order of February 25, 2021, it is denied.
2. Plaintiff appears to contend that Defendant should be required to produce the same categories of discovery that he has provided. This is not correct. Each party is obliged to produce appropriately requested non-privileged documents and information that is relevant and proportional pursuant to Fed. R. Civ. P. 26(b)(1). This is different for each party. The Court has relied on the requirements of the Federal Rules of Civil Procedure in its approach to Plaintiff's motion, mindful that it is he, and not Defendant, who must shoulder the burden of proving his claims.

**Rulings on Document Requests:**

Document Requests 2, 11: These requests seek Defendant's employee file and employment records at the Rhode Island Department of Corrections ("RIDOC"), to which she no longer has access. Moreover, the documents sought are extremely confidential and should not be ordered to be produced except and only to the limited extent that something specific is relevant to the claims and defenses in issue. The speculation that such highly confidential information might include something that might be used to impeach Defendant is not sufficient. See Bourne v. Arruda, No. 10-cv-393-LM, 2012 WL 1570831, at \*4 (D.N.H. May 3, 2012) ("that the requested information may lead to the discovery of impeachment materials provides no basis for allowing such broad discovery into extraneous matters"). The motion to compel these requests is denied.

Document Requests 3, 7: Defendant has responded that she has no responsive documents in her possession, custody and control. That is enough. The motion to compel these requests is denied.

Document Request 8: Plaintiff asks the Court to enter a sweeping order mandating that Defendant provide him with four years of intensely confidential tax returns and related documents. This request seeks information that is utterly irrelevant to any of the claims and defenses in this case and borders on harassment. The motion to compel this request is denied.

**Rulings on Interrogatories:**

Interrogatory Nos. 1, 2: These requests seek extensive and extremely personal background information about Defendant including her income, her home addresses and details regarding her children and family. In addition to the very significant privacy

considerations, Defendant's former position at RIDOC means that there are also serious security concerns about releasing any such information. Defendant has already provided the information that is relevant – her professional credentials and experience – by producing her Curriculum Vitae. Nothing more is relevant or proportional; some of the information sought borders on harassment. The motion to compel these requests is denied.

Interrogatory No. 5: Plaintiff's request for complaints by other inmates about any aspect of medical care received while in RIDOC's custody during the two-year period prior to when Defendant left her employment at RIDOC is hopelessly overbroad and implicates the personal and healthcare information potentially of thousands of inmates. Further, as a former RIDOC employee with no access to RIDOC's files, an order to respond would impose a disproportional burden on Defendant. Notwithstanding the foregoing, there may be relevant publicly available information of which Defendant is aware that should be produced. Mindful of Plaintiff's *pro se* status, the Court orders Defendant to produce, for the two-year period covered by the request, a list of the captions, together with citation to pertinent findings, of lawsuits in which a judge (based on a bench trial) or jury (based on a verdict) made a finding that Defendant was liable under 42 U.S.C. § 1983 based on her failure to provide constitutionally sufficient medical care to an inmate (pre- or post-adjudication) while held in RIDOC's custody. Otherwise, the motion to compel this request is denied.

Interrogatory No. 11: This interrogatory asks Defendant to detail the reasons for her decision to resign from RIDOC on January 4, 2021, and to accept a position at the Department of Health. Unless Defendant was asked to resign because of her deliberate indifference to the health care needs of Plaintiff and inmates similarly situated to Plaintiff, this inquiry is not relevant. The Court orders Defendant to respond further to this

interrogatory by stating whether she was asked to resign because of her deliberate indifference to the health care needs of Plaintiff and inmates similarly situated to Plaintiff. Otherwise, the motion to compel this request is denied.

Interrogatory Nos. 21, 31: These requests broadly inquire about complaints and concerns expressed by other health care providers and Defendant herself about the quality of the care provided to inmates at RIDOC. Further, as a former RIDOC employee with no access to RIDOC's files, an order to respond would impose a disproportional burden on Defendant. Without more focus on what is relevant to this case, the motion to compel more than Defendant has already provided is denied, except that, to the extent she has not already done so (and to the extent such information is presently within her custody and control), Defendant is ordered to answer further regarding complaints and concerns expressed by other health care providers and by Defendant herself regarding the adequacy of the health care provided to Plaintiff.

Interrogatory No. 27: This request asks Defendant to provide specific information about every instance when any inmate did not receive prescribed medication on time and what steps were taken to address each situation; it is hopelessly overbroad and implicates personal and health care information regarding other inmates. Without more focus on what is relevant to this case, the motion to compel more than Defendant has already provided is denied, except that, to the extent she has not already done so (and to the extent such information is presently within her custody and control), Defendant is ordered to answer further regarding Plaintiff's timely receipt of medication and what, if anything, she or others acting under her direction did to address any such delays.

Based on the foregoing, Plaintiff's Motion to Strike the Challenges of and Compel Responses from Defendant Jennifer Clarke to Plaintiff's Request for Production (ECF No. 58) is granted in part and denied in part, without prejudice to Defendant's right to seek confidential treatment of the further discovery. Subject to her right to request confidentiality, Defendant shall provide responses as ordered within thirty days of the issuance of this Order.

/s/ Patricia A. Sullivan  
PATRICIA A. SULLIVAN  
United States Magistrate Judge  
July 12, 2021